

PageID 47  
FOR COURT USE ONLY

- ☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:

ARAGON v. JOHNSON &amp; JOHNSON, et al

CASE NUMBER

30-2017-00955879

## INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☐ Plaintiff    ☒ Defendant    ☐ Cross-Complainant    ☐ Cross-Defendant

DEPUY ORTHOPEDICS, INC., DEPUY MITEK, DEPUY PRODUCTS, INC., DEPUY INTERNATIONAL LIMITED, JOHNSON & JOHNSON SERVICES, INC., and DOES 1 to 100, INCLUSIVE

Page \_\_\_\_\_ of \_\_\_\_\_

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## ADDITIONAL PARTIES ATTACHMENT

Attachment to Summons

ARAGON, Marile

SHORT TITLE:

ARAGON, et al., v. JOHNSON &amp; JOHNSON, et al.,

CASE NUMBER:

30-2017-00955879

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☒ except defendant (name): JOHNSON & JOHNSON,

INC., and DOES 1 to 100, INCLUSIVE

(1) ☒ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):c. ☒ except defendant (name): DEPUY ORTHOPEDICS,

INC., and DOES 1 to 100, Inclusive

(1) ☒ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):b. ☒ except defendant (name): DEPUY SYNTHES,  
and DOES 1 to 100, Inclusive(1) ☒ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):d. ☒ except defendant (name): DEPUY MITEK, and  
DOES 1 to 100, Inclusive(1) ☒ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 1-100, Inclusive were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☒ Doe defendants (specify Doe numbers): 1-100, Inclusive are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. ☐ at least one defendant now resides in its jurisdictional area.b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.d. ☐ other (specify):9. ☒ Plaintiff is required to comply with a claims statute, anda. ☒ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):



SHORT TITLE:

ARAGON, et al., v. JOHNSON &amp; JOHNSON, et al.,

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4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

Page Three

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

JOHNSON &amp; JOHNSON

a. ☒ except defendant (name): DEPUY ORTHOPAEDICS,

INC., and DOES 1-100, Inclusive

(1) ☐ a business organization, form unknown(2) ☒ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):c. ☒ except defendant (name):

SERVICES, INC., and DOES 1-100, Inclusive

(1) ☐ a business organization, form unknown(2) ☒ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):b. ☒ except defendant (name): DEPUY INTERNATIONAL

LIMITED, and DOES 1-100, Inclusive

(1) ☒ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):d. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☐ Doe defendants (specify Doe numbers): \_\_\_\_\_ were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☐ Doe defendants (specify Doe numbers): \_\_\_\_\_ are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

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ARAGON, et al., v. JOHNSON &amp; JOHNSON, et al., xxx

CASE NUMBER  
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10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

Page Four

- a. ☐ Motor Vehicle  
 b. ☐ General Negligence  
 c. ☐ Intentional Tort  
 d. ☒ Products Liability  
 e. ☐ Premises Liability  
 f. ☐ Other (*specify*):

11. Plaintiff has suffered

- a. ☒ wage loss  
 b. ☒ loss of use of property  
 c. ☒ hospital and medical expenses  
 d. ☒ general damage  
 e. ☒ property damage  
 f. ☒ loss of earning capacity  
 g. ☒ other damage (*specify*): Exemplary Damages;

By reason of the said injuries suffered and sustained by plaintiff's wife, plaintiff has been deprived of love, companionship, affection, society, sexual relations, and solace of said wife, all to plaintiff's further damage.

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
- a. ☐ listed in Attachment 12.  
 b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages  
 (2) ☒ punitive damages

The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):

- (1) ☒ according to proof  
 (2) ☐ in the amount of: \$

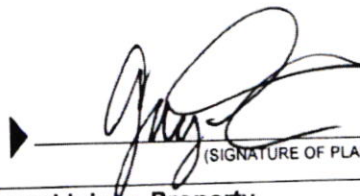
Judgment for prejudgment interest at 10% per annum pursuant to CC Section 3291.

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

Date: September 30, 2022

GARY L. CHAMBERS

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

PLD-PI-001 [Rev. January 1, 2007]

COMPLAINT-Personal Injury, Property  
Damage, Wrongful Death

ARAGON, Marile



SHORT TITLE

CASE NUMBER

ARAGON, et al., v. JOHNSON &amp; JOHNSON, et

FIRST

## CAUSE OF ACTION- Products Liability

Page Five

(number)

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint  
 (Use a separate cause of action form for each cause of action.)

Plaintiff (name): MARILE ARAGON, RODNEY ARAGON

Prod. L-1. On or about (date): January 4, 2017 plaintiff was injured by the following product:

\*\*SEE ATTACHMENT PROD. L-1\*\*

Prod. L-2. Each of the defendants knew the product would be purchased and used without inspection for defects. The product was defective when it left the control of each defendant. The product at the time of injury was being

- ☒ used in the manner intended by the defendants.  
☒ used in a manner that was reasonably foreseeable by defendants as involving a substantial danger not readily apparent. Adequate warnings of the danger were not given.

Prod. L-3. Plaintiff was a

- ☒ purchaser of the product. ☒ user of the product.  
☐ bystander to the use of the product. ☐ other (specify):

PLAINTIFF'S INJURY WAS THE LEGAL (PROXIMATE) RESULT OF THE FOLLOWING:

Prod. L-4. ☒ Count One-Strict liability of the following defendants who

- a. ☒ manufactured or assembled the product (names):  
 JOHNSON & JOHNSON, INC., DEPUY SYTHES,  
 \*\*SEE ATTACHED FOR ADDITIONAL DEFENDANTS\*\*  
☒ Does 1 to 100, Inclusive
- b. ☒ designed and manufactured component parts supplied to the manufacturer (names):  
 JOHNSON & JOHNSON, INC., DEPUY SYTHES,  
 \*\*SEE ATTACHED FOR ADDITIONAL DEFENDANTS\*\*  
☒ Does 1 to 100, Inclusive
- c. ☒ sold the product to the public (names):  
 JOHNSON & JOHNSON, INC., DEPUY SYTHES,  
 \*\*SEE ATTACHED FOR ADDITIONAL DEFENDANTS\*\*  
☒ Does 1 to 100, Inclusive

Prod. L-5. ☒ Count Two-Negligence of the following defendants who owed a duty to plaintiff (names):

- JOHNSON & JOHNSON, INC., DEPUY SYTHES,  
 \*\*SEE ATTACHED FOR ADDITIONAL DEFENDANTS\*\*  
☒ Does 1 to 100, Inclusive

Prod. L-6. ☒ Count Three-Breach of warranty by the following defendants (names):

- JOHNSON & JOHNSON, INC., DEPUY SYTHES,  
 \*\*SEE ATTACHED FOR ADDITIONAL DEFENDANTS\*\*  
☒ Does 1 to 100, Inclusive

- a. ☒ who breached an implied warranty  
 b. ☒ who breached an express warranty which was  
☒ written ☒ oral

Prod. L-7. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are  
☐ listed in Attachment-Prod. L-7 ☐ as follows:

SHORT TITLE:

ARAGON v. JOHNSON &amp; JOHNSON, et al

CASE NUMBER

30-2017-00955879

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☐ Plaintiff    ☒ Defendant    ☐ Cross-Complainant    ☐ Cross-Defendant

DEPUY ORTHOPEDICS, INC., DEPUY MITEK, DEPUY PRODUCTS, INC., DEPUY INTERNATIONAL LIMITED, JOHNSON & JOHNSON SERVICES, INC., and DOES 1 to 100, INCLUSIVE

Page \_\_\_\_\_ of \_\_\_\_\_

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## ADDITIONAL PARTIES ATTACHMENT

Attachment to Summons

ARAGON, Marile

SHORT TITLE:

ARAGON, et al., v. JOHNSON &amp; JOHNSON, et al.,

CASE NUMBER:

ATTACHMENT (Number): \_\_\_\_\_

(This Attachment may be used with any Judicial Council form.)

FIRST CAUSE OF ACTION - PRODUCTS LIABILITY

Page Six

ATTACHMENT TO COMPLAINT

PROD. L-1 continued:

At all times herein mentioned, defendants, JOHNSON & JOHNSON, INC., DEPUY SYNTHES, DEPUY ORTHOPEDICS, INC., DEPUY MITEK, DEPUY PRODUCTS, INC., DEPUY INTERNATIONAL LIMITED, JOHNSON & JOHNSON SERVICES, INC., and DOES 1 to 100, Inclusive, and each of them, owned, maintained, serviced, leased, repaired, licensed, manufactured, distributed, wholesaled, marketed, designed, sold and supplied component parts for the Depuy Pinnacle Grip-Cup 56.

On or about the 4th day of January, 2017, the aforementioned product(s) was in use having been surgically placed on December 28, 2012.

At said time and place and while the product(s) were being used in a reasonably foreseeable manner, said products failed and the plaintiff, MARILE ARAGON, was injured as a direct and proximate result thereof, resulting in severe and serious injury to her person, all to her damage in a sum within the jurisdiction of this court, and to be shown according to proof.

The direct and proximate cause of said failure and plaintiff's injury was a defect in the design, manufacture, production, and installation of said product(s).

The direct and proximate cause of the failure of said product(s) was the negligence, carelessness, unlawfulness, recklessness, and wantonness of the defendants, and each of them, in the manner in which they designed, manufactured, marketed, distributed, installed, inspected, purchased, maintained, controlled, and handled said products.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page \_\_\_\_\_ of \_\_\_\_\_  
(Add pages as required)

www.courtinfo.ca.gov

Form Approved for Optional Use  
Judicial Council of California  
MC-025 [Rev. July 1, 2009]

ATTACHMENT  
to Judicial Council Form

ARAGON, Marile



SHORT TITLE:  
ARAGON, et al., v. JOHNSON & JOHNSON, et

CASE NUMBER  
30-2017-00955879

### Exemplary Damages Attachment

Page Seven

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

EX-1. As additional damages against defendant (name):

JOHNSON & JOHNSON, INC., DEPUY SYNTHES,  
\*\*SEE ATTACHED FOR ADDITIONAL DEFENDANTS\*\*

Plaintiff alleges defendant was guilty of

- ☒ malice  
☒ fraud  
☒ oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Plaintiff, MARILE ARAGON, incorporates by reference the allegations contained in the First Cause of Action, and each and every part thereof with the same force and effect as though set out at length herein.

At all times herein mentioned, defendants, JOHNSON & JOHNSON, INC., DEPUY SYNTHES, DEPUY ORTHOPEDICS, INC., DEPUY MITEK, DEPUY PRODUCTS, INC., DEPUY INTERNATIONAL LIMITED, JOHNSON & JOHNSON SERVICES, INC., and DOES 1 through 100, Inclusive, owned, maintained, serviced, leased, repaired, licensed, manufactured, distributed, wholesaled, marketed, designated, and supplied component parts for the Pinnacle hip replacement system placed in Plaintiff, MARILE ARAGON.

At said time and place and while the plaintiff was using said product in a reasonably foreseeable manner, said product failed and the plaintiff, MARILE ARAGON, was injured as a direct and proximate result of thereof, resulting in severe and serious injury to her person, all to her damage in a sum within the jurisdiction of this court, and to be shown according to proof.

The direct and proximate cause of said failure and plaintiff's injury was a defect in the design, manufacture, production, and installation of said product.

The direct and proximate cause of the failure of said product was the negligence, carelessness, unlawfulness, recklessness, and wantonness of the defendants, and each of them, in the manner in which they designed, manufactured, marketed, distributed, installed, inspected, purchased, maintained, controlled and handled said product.

EX-3. The amount of exemplary damages sought is

- a. ☐ not shown, pursuant to Code of Civil Procedure section 425.10.  
b. ☐ \$

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Exemplary Damages Attachment

Code of Civil Procedure, § 425.12  
www.courtinfo.ca.gov

ARAGON, Marile

SHORT TITLE: ARAGON v. JOHNSON & JOHNSON, et al	CASE NUMBER 30-2017-00955879
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DEPUY ORTHOPEDICS, INC., DEPUY MITEK, DEPUY PRODUCTS, INC., DEPUY INTERNATIONAL LIMITED, JOHNSON & JOHNSON SERVICES, INC., and DOES 1 to 100, INCLUSIVE

Page \_\_\_\_\_ of \_\_\_\_\_

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**ADDITIONAL PARTIES ATTACHMENT**

Attachment to Summons

ARAGON, Marile



## SHORT TITLE:

## CASE NUMBER:

- ARAGON, et al., v. JOHNSON &amp; JOHNSON, et al,

30-2017-00955879

## ATTACHMENT (Number): \_\_\_\_\_

(This Attachment may be used with any Judicial Council form.)

EXEMPLARY DAMAGES ATTACHMENT

Page Eight

Ex-2 continued:

The dangerous condition created a reasonably foreseeable risk of the kind of injury which is hereafter alleged and the defendants, and each of them, had actual knowledge of the existence of the condition and knew or should have known, of its dangerous character a sufficient time prior to the aforesaid time and place to have taken measures against the dangerous condition.

The defendants, JOHNSON & JOHNSON, INC., DEPUY SYNTHES, DEPUY ORTHOPEDICS, INC., DEPUY MITEK, DEPUY PRODUCTS, INC., DEPUY INTERNATIONAL LIMITED, JOHNSON & JOHNSON SERVICES, INC., and DOES 1 through 100, inclusive, and each of them, actually knew of the defect and its dangerous nature and intentionally failed to warn either Plaintiff, MARILE ARAGON, or her surgeons prior to the surgical insertion into Plaintiff. Said conduct was reckless, wanton, illegal and malicious and their malfeasance and nonfeasance justify the awarding of punitive/exemplary damages.

As a direct and proximate result of the negligence, carelessness, unlawfulness, recklessness, and wantonness and the dangerous condition created thereby, the following occurred: product failed requiring another surgery and resulting in debilitating lifelong injuries.

As a direct and proximate result of the negligence, carelessness, recklessness, wantonness and unlawfulness of defendants, and each of them, and the resulting failure, as aforesaid, plaintiff, MARILE ARAGON, sustained severe and serious injury to her person, all to plaintiff's damage in a sum within the jurisdiction of this Court and to be shown according to proof.

By reason of the foregoing, this plaintiff has been required to employ the services of hospitals, physicians, surgeons, nurses and other professional services and plaintiff has been compelled to incur expenses for ambulance services, medicines, x-rays, and other medical supplies and services. Plaintiff is informed and believes, and thereon alleges, that further services of said nature will be required by plaintiff for an unpredictable period in the future, all to the damage of plaintiff in an amount to be shown according to proof.

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Page \_\_\_\_\_ of \_\_\_\_\_  
(Add pages as required)



## SHORT TITLE:

ARAGON, et al., v. JOHNSON &amp; JOHNSON, et

## CASE NUMBER

30-2017-00955879

## ATTACHMENT (Number) : \_\_\_\_\_

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EXEMPLARY DAMAGES ATTACHMENT

Page Nine

Ex-2 continued:

At the time of the injury, as aforesaid, plaintiff, MARILE ARAGON, was regularly and gainfully employed; by reason of the foregoing, plaintiff has been unable to engage in her employment for a time subsequent to said accident and plaintiff is informed and believes, and upon such information and belief, alleges that she will be unable to work in her said employment for an indefinite period in the future, thereby suffering a loss of earning capacity, all to plaintiff's damage in an amount to be shown according to proof.

Defendants, JOHNSON & JOHNSON, INC., DEPUY SYNTHES, DEPUY ORTHOPEDICS, INC., DEPUY MITEK, DEPUY PRODUCTS, INC., DEPUY INTERNATIONAL LIMITED, JOHNSON & JOHNSON SERVICES, INC., and DOES 1 through 100, Inclusive, did the things herein alleged with an intentional, reckless and wanton disregard of the safety of plaintiff, and said acts were done maliciously and oppressively. Plaintiff is therefore entitled to exemplary or punitive damages in an amount to be shown according to proof.

By reason of the said injuries suffered and sustained by plaintiff's wife, plaintiff has been deprived of love, companionship, affection, society, sexual relations, and solace of his wife, all to plaintiff's further damage.

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Page \_\_\_\_ of \_\_\_\_  
(Add pages as required)

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ATTACHMENT  
to Judicial Council Form

ARAGON, Marile

Form Approved for Optional Use  
Judicial Council of California  
MC-025 (Rev. July 1, 2009)

CEB® Essential  
Forms™  
ceb.com

**PROOF OF SERVICE**

I am employed in the County of Orange, State of California; I am over the age of 18 and not a party to the within action; my business address is 2070 North Tustin, Santa Ana, CA 92705-7827.

On **September 30, 2022**, I served the foregoing; **SUMMONS ON FIRST AMENDED COMPLAINT AND FIRST AMENDED COMPLAINT**; on the interested parties as follows:

**XX** By Mail: By placing true copies thereof enclosed in sealed envelope(s) with postage thereon fully prepaid, in the United States mail at Santa Ana, California as follows:

By Overnight Delivery: I caused such envelope(s) to be delivered via "next day" delivery to the following addressee(s):

By Facsimile: By causing said documents to be transmitted by Facsimile machine to the number indicated after the address(es) set forth below:

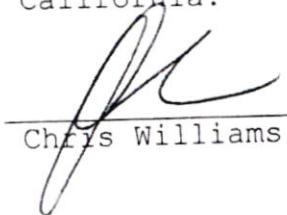
By Personal Service: I caused such envelope(s) to be delivered by hand to the following addressee(s):

**XX** ONLY BY ELECTRONIC TRANSMISSION: Only by e-mailing the document(s) to the persons at the e-mail address(es) listed based on notice provided on March 18, 2020 that, during the Coronavirus (Covid-19) pandemic, this office will be working remotely, not able to send physical mail as usual, and is therefore using only electronic mails. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

**\*\*PLEASE SEE ATTACHED SERVICE LIST\*\***

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the United States postal service on that same day with postage thereon fully prepaid at Santa Ana, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct. Executed on **September 30, 2022** at Santa Ana, California.

  
Chris Williams

SERVICE LIST

Terri L. Bruksch, Esq.  
BARNES & THORNBURG LLP  
11 South Meridian Street  
Indianapolis, IN 46204  
317/231-7246  
Email: [Terri.bruksch@btlaw.com](mailto:Terri.bruksch@btlaw.com)  
Attorneys for Defendants